

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7198

BILL NUMBER: HB 1376

NOTE PREPARED: Jan 11, 2011

BILL AMENDED:

SUBJECT: Local Government.

FIRST AUTHOR: Rep. Hinkle

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

Township Boards: The bill abolishes all township boards on January 1, 2012. It specifies that after December 31, 2011, in each county: (1) the county fiscal body is the fiscal body and legislative body of each township in the county; and (2) the county fiscal body shall exercise the legislative and fiscal powers assigned in the Indiana Code to township boards, including the authority to adopt the township's annual budget and to levy township property taxes for township funds. It also repeals statutes related to township boards.

Fire Departments in Marion County: It provides that on January 1, 2012, the remaining township fire departments in Marion County are consolidated into the fire department of the consolidated city.

Township Government Abolished: The bill provides that in a county that: (1) contains a consolidated city; or (2) contains a second class city; township government is abolished on the earlier of: (1) January 1, 2015; or (2) the date established by resolution of the township board (before January 1, 2012) or the county fiscal body (after December 31, 2011) and approved by order of the township trustee; and township powers and duties are transferred to the county.

Public Question on Township Government: The bill provides that in counties not containing a consolidated city or a second class city a public question shall be placed on the November 2012 general election ballot in the county regarding whether the voters want to retain township government. It provides that if a majority of voters in a county do not approve the public question, the powers and duties of the townships in the county are transferred to the county on January 1, 2015.

Transfer of Duties: It provides that a transfer of duties between the townships and the county results in the transfer of property, equipment, records, rights, contracts, and indebtedness. It also provides that a township may not transfer or expend from the township's rainy day fund more than 1% of the balance in that rainy day fund in any 12 month period without approval of the county fiscal body.

The bill specifies that any amounts transferred from the township's rainy day fund may be used by only as follows: (1) First, to pay any outstanding indebtedness of the township from which the money was transferred. (2) Second, for infrastructure within the township from which the money was transferred.

Fire Consolidation Transition Advisory Group: The bill establishes a fire consolidation transition advisory group in each county in which township government will be abolished. It requires the fire consolidation transition advisory group to do the following: (1) Develop a strategic plan to determine resource requirements and resource deployments for the consolidated fire department. (2) Submit recommendations. (3) Take steps as necessary to assist the transfer of powers and duties.

Township Assistance Transition Advisory Group: The bill provides that a township assistance transition advisory group is established in each county in which township government will be abolished. It requires the township assistance transition advisory group to: (1) submit recommendations concerning the transition of responsibility for township assistance; and (2) take steps as necessary to assist the transition.

Coordinator of Social Services: It provides that if township powers and duties are transferred to the county, a coordinator of social services appointed by the county executive shall: (1) estimate the amount necessary to meet the cost of township assistance in the county; and (2) administer township assistance on a countywide basis. The bill requires the Department of Workforce Development, the county office of the Division of Family Resources, and any other state and local government agency to cooperate with the coordinator in providing assistance.

Property Tax: The bill specifies the following apply in a county having a consolidated city: (1) The property tax rate imposed in 2012, 2013, and 2014 for fire protection within a township that consolidates its fire department or an excluded city that consolidates its fire department may not increase by more than 5% annually, as compared to the preceding year. (2) After 2014, the total property tax rate imposed for fire protection by the consolidated city and by the fire special service district in the area served by the consolidated fire department shall be a uniform rate throughout that area, and property tax revenue raised from the uniform property tax rate may be used only for fire protection purposes.

Firefighter Pension Funds: It provides that a firefighter who is a member of the 1937 or 1977 fund remains a member of the same fund after the transfer of fire protection duties.

Adjusted Property Tax Levies: The bill provides for the adjustment of property tax levies and budgets to account for the transfer of powers and duties of townships.

Fire Department: It specifies that the fire department of the consolidated city shall be designated as the Indianapolis Metropolitan Fire Department.

Fire Merit Board: The bill changes the membership of the fire merit board in a county having a consolidated city. It provides that the fire merit board in a county having a consolidated city has complete discretion to establish a classification of ranks, grades and positions in the fire department and shall designate the authority and responsibilities of each rank, grade and position.

Rank: The bill specifies that an individual who becomes a firefighter employed by the Metropolitan Fire Department through the consolidation of township fire protection services into the fire department of the consolidated city after 2004 may not have the individual's merit rank reduced below the merit rank held by the individual on January 1, 2005, as a firefighter employed by a township fire department. It also provides that in the case of an individual who becomes a firefighter employed by the Metropolitan Fire Department through the consolidation of township fire protection services: (1) the time served by such an individual as a firefighter with the Metropolitan Fire Department shall also include the total time served by the individual as a firefighter with the township department in which the individual was serving at the time of the consolidation; and (2) the hire date of such an individual is the date on which the individual was hired as a firefighter by the township department in which the individual was serving at the time of the consolidation.

Small Claims Court: It specifies that after December 31, 2011, salaries of small claims court judges: (1) shall be established by ordinance of the city-county council; and (2) shall be paid by the county in the same installments as judges of the superior court in the county. The bill also provides that if any funds remain after the payment of expenses of operating the small claims court, the remaining funds may be used to fund public safety programs in the county as determined by the city-county council. It provides that the venue of any claim filed in a small claims court after December 31, 2011, that is related to real estate must be in the township where the real estate is located. (Under current law, any claim between a landlord and tenant filed in a small claims court must be in the township where the real estate is located.)

Distributive Shares: The bill provides that after a township government is abolished, the township's distributive share of any state or local taxes or revenues is transferred to the county.

Budget Submission: The bill specifies that if the assessed valuation of a taxing unit with an unelected governing body was originally established by the excluded city or town in Marion County, the governing body of the taxing unit shall submit its proposed operating and maintenance budget and tax levies to the city or town fiscal body (rather than to the city-county legislative body) for approval. (Current law provides for approval by the excluded city or town fiscal body only if the taxing unit's assessed valuation is entirely contained within the excluded city or town.)

Effective Date: Upon passage; July 1, 2011; January 1, 2012.

Explanation of State Expenditures: *Department of Local Government Finance (DLGF):* The DLGF is to adjust the maximum permissible property tax levies and property tax rates of units to reflect transfers of duties and responsibilities and to review balances in township funds to determine if an excess balance exists and to determine the amounts to transfer from the township to the county. The bill's requirements are within the DLGF's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

Explanation of State Revenues:

Explanation of Local Expenditures: The bill has indeterminate fiscal impact on county government. The bill abolishes township government in certain counties on January 1, 2015, and allows a referendum on eliminating all other townships in November 2012. For townships that are abolished, all of the duties and powers of the township government transfer to the county on January 1, 2015 (unless a consolidate county or county containing a second class city consolidates at an earlier date specified in an ordinance). The bill does not delete or diminish the responsibilities and duties currently assigned in statute to township trustees, township boards, township small claims courts, or other entities, but rather transfers the responsibilities to

the county. If a county can perform or contract for the performance of the duties and administrative functions of the townships or other consolidating entity more efficiently, cost savings will result.

Background & Additional Information - Abolished Townships: The bill abolishes all townships in counties with a consolidated city or a second class city. The counties affected include Allen, Delaware, Elkhart, Floyd, Grant, Hamilton, Howard, Lake, LaPorte, Madison, Marion, Monroe, St. Joseph, Tippecanoe, Vanderburgh, Vigo, and Wayne. On January 1, 2015, or before (established in a resolution or ordinance), township government will be dissolved and its duties and powers are conveyed to the county. The functions, duties and responsibilities of the township trustees transfer to the county executive, of the township board transfer to the county council, unless otherwise specified. The duties of a township assessor, if any, transfer to the county assessor. The assets, property rights, equipment, records, personnel, and contracts are to transfer to the county.

Election Counties: In counties other than those whose township is abolished by function of law, the question, “Shall the township government be retained?” will appear on the ballot. If the majority of voters in the county vote no, the powers and duties of the township are transferred to county and office of township trustee and township assessor, if any, are transferred to the county executive and assessor, respectively.

Township Officials: Of the total 1,008 townships in Indiana, 213 townships would be eliminated by function of law in 2015, and 795 townships in 80 counties would be subject to a vote for elimination in November 2012. Each township outside of Marion County has a three-member board and, in Marion County, the township boards have seven members. Currently, the township board is the legislative body of the township, and the township trustee is the township executive. The legislative body of a township fixes the salaries for the members of the township board. There is no single, statewide repository of township board member or township trustee salaries. The following table estimates the number of elected township official positions that will be eliminated by function of law, and that could potentially be eliminated in other counties.

Estimated Salary of Elected Township Officials by Date of Elimination

	Function of Law Counties	Estimated Salaries	In Other Counties	Estimated Salaries^a
Townships	213		795	
<i>Officials per Township:</i>				
Board Members	699	\$2.6 M ^b	2,385	\$1.3 M ^d
Trustees	<u>213</u>	<u>4.0 M^c</u>	<u>795</u>	<u>6.0 M^e</u>
Total	912	\$6.6 M	3,180	\$7.3 M

^aAssumes all townships are eliminated by vote.

^bBoard member salaries for 2015 counties were based on an average of townships within the county for which data were available. Floyd County information was unavailable and Delaware County average salaries were substituted.

^cWashington Township, Marion County trustee salary was unavailable and the 2009 budget number was substituted. Data were available for 60% of the 2015 townships, the average township trustee salary for townships with available data was used to estimate the remaining townships trustee salaries.

^dThe median salary of \$525 for 562 townships with available data was used to estimate board member salaries in other townships.

The median trustee salary of \$7,500 for 568 townships with available data was used to estimate trustee salaries in other townships.

In addition to these township general fund positions, there are 13 township assessors that would be eliminated; 12 are in the “Function of Law Counties” and 1 is in a county that would vote on township elimination. Township assessors are paid from the county reassessment fund.

While savings will accrue to township residents, the county fiscal body, which fixes the compensation of officers, may increase compensation for county legislative and fiscal bodies or county executives that undertake additional responsibilities from the township boards and trustees. Also, the bill establishes several new positions in certain circumstances. Any changes in county officer compensation or additional salary expense would be the decision of the county fiscal body. Statewide, the 2010 township general fund budget appropriations for 987 townships reporting were \$63.3 M. It is assumed that most of this cost will transfer to the county government for operation of the duties and powers of township government, unless operating or management efficiencies can be recognized.

Township Assistance: Responsibilities for township assistance and distribution of medicines and vaccines transfer to the county. A county coordinator of social services will be appointed by the county executive to administer township assistance on a countywide basis. The coordinator has to have the same privileges and immunities and the same powers in administration of township assistance as the township trustee, including reporting requirements, and the same standards and requirements for recipients apply to township assistance administered by the county. Any application for township assistance for which a final decision has not been entered will be treated as a new application. Any application granted but not disbursed is to be disbursed and administered by the county.

Township Assistance Transition Advisory Group: A township assistance advisory group, consisting of one member appointed by the county executive to serve as chair and all the township trustees of the county, is to adopt a plan for the provision of township assistance on a countywide basis in counties. The board is

abolished on when township assistance powers transfer to the county for counties with a consolidated city or a second class city, and on January 1, 2015 for all other eliminated townships.

Fire Department Consolidation: In a county with a second class city or a county that dissolves its townships by election, the county executive is responsible for providing fire protection in the unincorporated areas of the county, but is not responsible for fire protection in an area served by a municipal fire department, fire protection district, or fire protection territory. The county fire department will include the fire departments of the townships and the fire protection districts.

Fire Consolidation Transition Advisory Group: In counties with a second class city, a fire consolidation transition advisory group, consisting of a chair appointed by the county executive and all township trustees or the trustee's designee, will develop a strategic plan to determine resource requirements and deployments and submit the recommendations to the county executive and fiscal body and assist in the transition to county fire protections.

Assignment of Property and Debt: The consolidated fire department is to assume or receive the personnel, agreements with labor organizations, indebtedness related to fire protection services, and merit board duties. The consolidated city is to assume the powers, duties, agreements, and liabilities of bonds or other indebtedness. Any property, equipment, records, rights, and contracts are to be conveyed to the consolidated fire department.

Fire Department in a County with a Consolidated City: In a consolidated city, an unconsolidated township fire department is to consolidate into the fire department of the consolidated city without action by the executive and legislative body of the township.

Fire Protection District: A fire protection district is to consist of all the unincorporated area that is located in the township, but not in an existing fire protection district. A municipality is included in the fire protection district only if it consents by ordinance or a majority of the freeholders petition to be included. The fire protection districts may merge or participate in a fire protection territory. The county legislative body appoints a fire trustee from among names submitted by the Indiana Volunteer Firefighters Association to a four-year term to manage the operations of the fire protection district. The fire trustee must be a resident of the fire protection district, and may not be an employee of the district or a relative of a member of the county fiscal body or county legislative body. The county fiscal body is to set the salary of the fire trustee by ordinance, and the county legislative body is the legislative body of the fire protection district.

Marion County Small Claims Courts: The judges of the small claims court will continue to be elected to a four-year term of office. The county executive will provide courtrooms and offices, and furnish supplies, furniture, and equipment and provide maintenance and upkeep.

Judge Salaries: Judge salaries are to be set by the city-county council, and paid by the county. The county fiscal body will set the salary of as many small claims court clerks as are necessary to operate efficiently and adequately serve the citizens, with the approval of the city-county council. Current law and the bill set a floor of \$5,600 for clerk salaries.

Explanation of Local Revenues: *Township General Fund Levies:* For the 987 townships levying a general fund property tax in 2010, the total levy was \$28.0 M. Any balance in a township general fund, other than funds for fire protection, transfers to the county executive on January 1, 2015 or before.

County Township Assistance Fund: The county is to estimate the total cost of township assistance in the county for the following year and adopt a uniform county tax rate to meet the estimated costs. The taxes levied for township assistance are to be placed in the fund, and the money in the fund is to be used to pay the expenses and obligations set forth in the annual budget. Drugs and vaccines provided to indigents are to be paid through the county's township assistance fund. Money in the fund at the end of the year does not revert to the county general fund. [In CY 2010, township assistance budget appropriations totaled \$69.9 M and levies totaled \$45.1 M statewide.]

Cemetery Funds: The cemetery duties imposed on the township trustee will transfer to the person designated by the county executive, and a county legislative body may approve purchases. The township cemetery fund transfers to the county fund established for that purpose and that it raised through a cemetery tax throughout the county.

Excess Fund Balance: The township executive is to transfer any excess fund balance in a township fund (other than a debt service fund or cumulative fund) as determined by the DLGF to the county treasurer. The county treasurer is to apply 25% of the transferred amount to provide property tax credits for persons paying property taxes in the county, place 25% in a special fund or account to be appropriated by the county fiscal body for programs designed to alleviate poverty, and transfer 25% each to Indiana University-Northwest and Indiana State University to make grants and conduct teaching or academic research concerning rural and urban poverty. An excess fund balance transfer does not reduce the maximum permissible levy for the county or township from which the transfer was made.

Debt Service Funds: Any balance remaining in a debt service fund after the county has paid the indebtedness or lease rental for which the fund was established transfers to the county general fund.

Indebtedness: Indebtedness and lease obligations incurred by a township government are to be defeased, paid, or refunded by the county which may levy a property tax only in the area of the township. However, the county may not assume all or part of township indebtedness that would exceed the limitations on the amount of indebtedness that the county may incur, and the township would continue to exist to levy the property taxes necessary to pay the indebtedness.

Cumulative Fire Fund Levies: Any balance in the township cumulative fire fund is to transfer to the county and must be used to pay for fire-related debt or lease rental obligations due after December 31, 2012. Cash balances remaining after the debt and lease payments are made would be transferred to the county's cumulative fire fund.

Firefighting Maximum Levies: Under the bill, the 2013 county firefighting maximum levy for Marion County, would increase by the 2012 firefighting maximum levies for all of the townships and fire territories and districts. For other counties, the county firefighting maximum levy in the year of merger would be increased by the townships fire levies for the previous year multiplied by the assessed value growth quotient.

Distributive Shares: The bill redistributes shares of county option income tax from Marion County townships to the city-county government and any distributive shares of state or local income or excise taxes will transfer to the county.

Marion County Small Claims Court Fees: Court fees will remain unchanged, but will be paid to the county general fund, township small claims courts account. Fees collected for court administration and judicial salaries are to be deposited in the county general fund in an account for each small claims court. At the end

of the fiscal year, any funds remaining in the account may be used for public safety programs as determined by the city-county council. After December 31, 2014, 40% of the court administration fees are to be used for the operation of small claims courts. In 2009, Marion County small claims courts generated a total of \$4.5 M, including \$1.5 M in state funds, \$123,000 in county funds, and \$2.9 M in local funds. The local funds would instead go to the county under the bill. Additionally, in 2009, Marion County small claims courts received \$574,000 for serving process by certified mail and almost \$1.1 M for service of process by personal service. These amounts are to be paid directly to the constables.

Levy and Budget Adjustments: Under this bill, the DLGF would adjust the maximum levies, budgets, and tax rates of townships and other taxing units that are exchanging duties. There should be no change in the overall total amounts after adjustment.

State Agencies Affected: DLGF.

Local Agencies Affected: Townships; Counties.

Information Sources: Local Technical Assistance Program, *2010 Directory of Indiana State, County, City and Town Officials*; State Court Administrator, 2009 Small Claims Court Revenue at in.gov/judiciary/admin/courtmgmt/stats/2009/v1/fiscalinfo/revenue_smclaims.pdf, township annual reports from in.gov/itp, local government detail reports; Local Government Database.

Fiscal Analyst: Karen Firestone, 317-234-2106; Bob Sigalow, 317-232-9859.